

LUMPKIN COUNTY RESOLUTION NO. 2005 - 43

A RESOLUTION TO RESTATE THE IMPOSITION OF THE LUMPKIN COUNTY HOTEL - MOTEL TAX AND TO SPECIFY THE SPECIFIC ARTICLE OF THE OFFICIAL CODE OF GEORGIA, ANNOTATED ON WHICH THE ORDINANCE RELIES FOR THE POWER TO SO IMPOSE THE TAX.

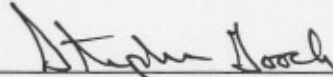
WHEREAS, the Georgia Department of Community Affairs has revised its existing rules to require that each government entity imposing a hotel/motel tax file with the Department a copy of the ordinance and a specific statement of the authority authorizing the imposition of the tax; and,

WHEREAS, the governing authority of Lumpkin County now desires to restate the ordinance for that purpose;

NOW THEREFORE, it is hereby resolved that Lumpkin County Ordinance 89.2, as amended December 22, 2003, effective March 1, 2004, shall continue in full force and effect;

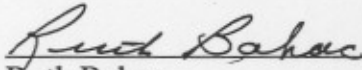
IT IS FURTHER RESOLVED that the imposition of the tax shall continue to be under the authority of O.C.G.A. Section 48-13-51(a)(3), with the five per cent tax imposed thereby to be used for the purpose of promoting tourism, conventions and trade shows.

RESOLVED, adopted and effective this 16th day of August, 2005.



Stephen W. Gooch, Chairman
Lumpkin County Board of Commissioners

Attest:



Ruth Bohac
Clerk, Lumpkin County

LUMPKIN COUNTY RESOLUTION NO. 2003-37

**A Resolution Adopting an Amendment to the
Lumpkin County Hotel/Motel Tax Ordinance**

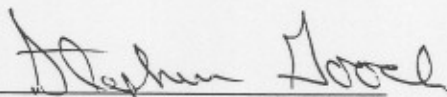
Whereas, the governing authority of Lumpkin County received a request from the Chamber of Commerce for the review and amendment of the exiting Hotel/Motel Tax Ordinance 89.2 to provide for improved collections, for penalties for failure to properly file, and for other purposes; and,

Whereas, all such moneys collected shall be dedicated to expenditure for the promotion of tourism, conventions and trade shows, all as provided and mandated by O.C.G.A. Section 48-14-50, *et seq.*; and,

Whereas, the governing authority of Lumpkin County has reviewed the proposed amendments and has determined that an amendment would be appropriate at this time;

Now therefore, it is hereby resolved and ordained that the regulations and procedures attached hereto and made a part hereof are adopted and shall be known as the Lumpkin County Hotel/Motel Tax Ordinance.

Resolved, adopted and effective this 22nd day of December, 2003.



Stephen W. Gooch

Lumpkin County Commissioner

Attest:



Ruth A. Bohac

Clerk, Lumpkin County

LUMPKIN COUNTY ORDINANCE 89.2

As Amended December 22, 2003

Effective March 1, 2004

AN ORDINANCE TO AMEND THE EXISTING ORDINANCE IMPLEMENTED IN ACCORDANCE WITH THE PROVISIONS OF TITLE 48, CHAPTER 13, ARTICLE 50, EXCISE TAX ON ROOMS, LODGINGS, AND ACCOMMODATIONS, GA> L. 1975, P. 1002, SEC 1, ET SEQ; AND TO PROVIDE DEFINITIONS, PROCEDURES AND PENALTIES; TO PROVIDE FOR THE RATE OF LEVY; TO PROVIDE FOR AN EXEMPTION; TO PROVIDE FOR THE COLLECTION BY THE OPERATOR; TO PROVIDE FOR ADMINISTRATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Commissioner of Lumpkin County, Georgia, is authorized by Section § 48-14-51, Official Code of Georgia Annotated, to implement an excise tax on occupancy of rooms, lodgings and accommodations; and,

WHEREAS, the Lumpkin County Hotel/Motel tax ordinance was enacted as Lumpkin County Ordinance 89.2; and

WHEREAS, the Commissioner has determined that it is appropriate to make certain changes to provide for the collection of said tax by and through the office of the Lumpkin County Clerk, to provide for penalties for failure to pay over the tax as provided, to provide for collection of unpaid taxes and for other purposes,

NOW, THEREFORE, the Commissioner of Lumpkin County, Georgia, resolves to adopt an Excise Tax Ordinance pursuant to said authority; and therefore, the Commissioner does publish, state and promulgate the following ordinance;

Ordinance 89.2 – Lumpkin County Hotel/Motel Tax

1. This ordinance is enacted by virtue of the powers set out in Section § 48-14-51, Official Code of Georgia Annotated. The purpose of this ordinance is to enact an excise tax on occupancy of rooms, lodgings and accommodations operating in the unincorporated areas of Lumpkin County.
2. This ordinance shall be known and may be cited as the "Lumpkin County Hotel/Motel Tax."
3. **Definitions.** As used in this ordinance, the following words, terms and phrases shall have the meanings ascribed to them herein, except when the context clearly indicates a contrary meaning.
 - a. **County** means Lumpkin County, a political subdivision of the State of Georgia.
 - b. **Due date** means the twentieth (20th) day after the close of the monthly period for which tax is to be computed.
 - c. **Forms** shall mean those forms implemented by the Revenue Collection Office and provided to any Operators, Authorized Entities or others required to provide information or to return taxes under the terms of this ordinance.
 - d. **Long term guest** means any occupant who as of a given date shall have occupied, or has or shall have the right to occupy, any guest room, lodging or accommodation for a period of more than ten (10) consecutive days.
 - e. **Occupant** means any person who, for a consideration, uses, possesses, or has the right to use or possess, any room, lodging or accommodation under any lease, concession, permit, right of access, license, agreement or otherwise.
 - f. **Occupancy** means the use or possession, or the right to the use or possession of the furnishings or to the services accompanying the use and possession of a room, lodging or accommodation.

g. **Operator** means any person operating a room, lodging, or accommodation (as set out herein) in the unincorporated areas of Lumpkin County, including, but not limited to, the owner or proprietor of such premises, the lessee, sub lessee, lender in possession, licensee, or any other person otherwise operating such room, lodging, or accommodation.

h. **Person** means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust receiver, trustee, syndicate, business entity, or any other group or combination acting as a unit, to include the plural as well as the singular number, excepting, however, the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the governing authority of Lumpkin County is without power to impose the tax herein provided.

i. **Rent** means the considerations or value received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

j. **Return** means any return filed or required to be filed as herein provided.

k. **Revenue Collection Office** means the Office of the Lumpkin County Clerk.

l. **Room, lodging or accommodation** means any structure or any portion of structure including any lodging house, studio, hotel, motel, motor hotel, auto court, inn, public club, lodge, tourist camp, tourist cabin or private club containing guest rooms, any camp site whether for vehicle or tent or otherwise, and which is occupied, or is intended or designed for occupancy, by guests, whether rent is paid in money, goods, labor or otherwise.

4. **Rate of levy.** There is hereby set and levied on each occupant of a guest room, lodging, or accommodation located within the unincorporated area of the County a tax in the amount of five per cent (5%) of the rent for such occupancy. The tax herein imposed shall be paid upon any occupancy occurring on or after May 1, 1989, although such occupancy is had pursuant to a contract, lease, or other agreement entered into prior to such date.

5. **Collection of tax by operator.** It shall be the duty of every operator of a room, lodging or accommodation located within the unincorporated area of the County to collect the tax on occupants as imposed herein.

6. **Exemptions.** Notwithstanding any other provision of this section, no tax shall be imposed hereunder:

a. For long term guests as defined herein.

b. For the use of meeting rooms.

c. For use by state or local government officials, employees or agents when traveling on official business.

d. For the use of any jail cell, detention center or other building where such housing or detention is under legal restraint.

e. For the use of any hospital medical treatment facility.

f. For the use of any room, lodging or accommodation being used as an emergency shelter.

g. For use by any emergency service worker or agency during any declared emergency as recognized by FEMA, GEMA or by the governing authority of Lumpkin County.

7. Registration of operator.

a. Every person engaging in or about to engage in business as an operator of any establishment pursuant to this Ordinance in the unincorporated areas of the County shall apply for a business license with the County Planning Department as required by the County Occupational Tax Ordinance, adopted in Lumpkin County Resolution No. 01-35, August 16, 2001.

b. A separate registration shall be required for each place of business of an operator.

8. Certificate of taxing authority. Upon approval of a business license to an operator of a room, lodging or accommodation as defined herein, the Revenue Collection Office will issue, without charge, a certificate of authority to collect the Hotel/Motel Tax, and a copy of this Ordinance with the necessary forms and instructions to be used in reporting and remitting such collections.

9. Due, payable monthly.

a. All taxes levied by this article shall be due and payable to the county monthly on or before the 20th day of every month next succeeding each respective month in which such taxes are collected, and payment shall be accompanied by a return for the preceding monthly period showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the period, and such other information as may be required by the Revenue Collection Office.

b. The return or report to be filed monthly with the taxes levied by this article shall have attached thereto a copy of the corresponding month's state department of revenue sales and use tax report (Form ST-3).

c. Not later than the fifteenth (15th) day of the month succeeding the month in which the taxes were paid to the Revenue Collection Office, the taxes then on hand shall be transferred into a separate account designated as the Tourism, Convention and Trade Show account. Any fees, costs or expenditures required under Paragraph 10.e. shall then be transferred back to the General Fund as required.

10. Expenditure for promotion of tourism, conventions and trade shows.

a. The Lumpkin County Commissioner, pursuant to O.C.G.A. § 48-13-51(a)(3) shall expend in each fiscal year during which the tax is collected, at a rate of five percent, for the purpose of promoting tourism, conventions and trade shows.

(i). Any amounts expended as provided in this section shall be expended through a contract with a private sector nonprofit organization.

(ii). A private sector nonprofit organization shall meet the criteria under O.C.G.A. § 48-13-51(8)(A).

b. The county shall prior to each fiscal year in which the tax is imposed adopt a budget plan specifying how the expenditure requirements will be met as required in O.C.G.A. § 48-13-51(a)(1)(A).

c. The authorized entity with which the county contracts shall furnish its budget for expenditures it shall make prior to adoption of the county budget.

d. The county audit each year shall reflect whether the requirements of O.C.G.A. § 48-13-51 have been met; this determination shall include a review of the expenditure of funds by the authorized entity and failure to properly account in any year shall be fully explained in the notes of the auditor.

e. Such funds at the direction of the Commissioner may be otherwise expended for the purpose of promoting tourism, conventions and trade shows as provided by statute, to include any administrative costs of implementing and maintaining the collections, accounting therefor, and any legal expenses, attorney fees and accounting costs.

11. **Collection fee allowed operators.** Operators collecting the tax levied by this article shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction for submitting, reporting, and payment of the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be three percent of the total amount of tax collected.

12. **Delinquency; estimation; enforcement.**

a. If any operator fails to file a return as required under the provisions of this article, the County shall make an estimate of the amount of gross rentals which are subject to the tax. The estimate shall be made for the period or periods in which the operator failed to file the returns and shall be based upon any information which is or may come into the possession of the County.

b. The Commissioner or his designated representative shall give to the operator written notice of the determination as herein provided. The notice may be served personally or by mail; if by mail such service shall be addressed to the operator at his address as it appears in the county's records. Service by mail is complete when placed in the U. S. Postal system for delivery by certified mail.

c. The amount of the determination made under this section shall bear daily interest at the maximum rate permitted by law for prejudgment debts, from the 20th day of the month for which the amount or any portion thereof should have been returned, until the date of payment.

d. In addition, a penalty of five percent of the tax due, or \$6.00, whichever is greater for each 30 days or fraction thereof of delinquency, not to exceed 25 percent or \$26.00 in the aggregate, whichever is greater, shall be assessed and paid by the operator to the county.

e. The estimated tax, together with applicable penalties and interest, may be collected utilizing any of the enforcement methods set forth in this article.

13. **Required records.** Each operator collecting a tax under the provisions of this article shall keep for a period of at least three years all records, receipts, invoices, and other pertinent papers setting forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the county may require.

14. **Enforcement, powers.** The Commissioner or his designated representative shall administer and enforce the provisions of this article for the collection of the tax imposed by this article, and in so doing shall have the power to:

a. Examine, or authorize the examination of, books, papers, records, financial reports, equipment, and other facilities of any operator subject to this article, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid;

b. Require the filing of reports by any person having in his possession or custody information relating to rentals which are subject to the tax levied by this article; and

c. Allow a credit on any amount due and payable from persons who paid the tax levied by this article but who were erroneously or illegally subjected thereto.

15. **Collection by court action.** At any time within three years after any tax or any portion of such tax required to be collected becomes due and payable, the county attorney or any attorney designated by the governing authority, at the

direction of the governing authority, may bring an action in a court of competent jurisdiction in the name of the county to collect such amount due together with interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto.

a. All cost of such collection shall be paid to the General Fund from the Tourism, Convention and Trade Show account at the time the costs are accrued, and before any fees available at that time are paid to any authorized entity.

b. To the extent that any judgments are collected following a favorable award of the Court, such fees shall be paid over to the Tourism, Convention and Trade Show account.

16. Effect of sale of establishment. If any operator becomes liable for any amount required to be paid by this article and subsequent thereto sells out or quits the business, the successors or assignees of such operator shall withhold a sufficient amount of the purchase price to cover such amount due. If such purchaser of the business fails to withhold the required amount, he shall become personally liable therefor to the extent of the tax owed, together with any applicable penalties and interest.

17. Penalties for violation.

a. Any person who shall do anything prohibited by this article or who shall fail to do anything required by this article shall be guilty of a misdemeanor, amenable to the process of the county magistrate court and upon conviction, shall be punished as provided in O.C.G.A. § 17-10-3, and said provisions are by reference incorporated herein.

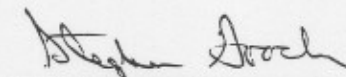
b. In order to enforce this article or to correct or abate any violation of this article, the Commissioner, in addition to other remedies may institute injunction, mandamus, or other appropriate action.

18. Repeal of Conflicting Provisions. All ordinances or parts of ordinances in conflict with this Ordinance and not preserved hereby are hereby repealed.

19. Severability. If any section, provision or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the provisions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

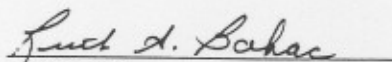
This ordinance was originally adopted on the 1st day of March, 1989, to become effective the 1st day of May, 1989, and was amended on the 1st day of April, 1995, to become effective on the 1st day of September, 1995, as provided by statute.

This ordinance, as amended, is hereby adopted on the 22nd day of December, 2003; to become effective the 1st day of March, 2004, or as may otherwise be provided by law.



Stephen W. Gooch
Lumpkin County Commissioner

Attest:



Ruth A. Bohac
Clerk, Lumpkin County